



# County of Fresno

## BOARD OF SUPERVISORS

Chairman  
**Sal Quintero**  
District Three

Vice-Chairman  
**Andreas Borgeas**  
District Two

**Brian Pacheco**  
District One

**Buddy Mendes**  
District Four

**Nathan Magsig**  
District Five

**Bernice E. Seidel**  
Clerk

September 19, 2018

*Sent Via Electronic Filing*

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Subject: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket Nos. 17-84 and 17-79**

Dear Secretary Dortch:

The County of Fresno ("County") writes to express our concerns over the Federal Communications Commission's ("FCC") proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. The County is a predominately rural county within the agricultural center of California. Because of the significant rural areas within the County, we have experienced an increased number of new small wireless facilities and collocation applications over the last few years.

While we share the FCC's objective of finding new ways to effectively deploy broadband technologies, especially in underserved communities, we are concerned that the proposed order would significantly impede local governments' ability to serve as trustees of public property, safety, and welfare. Local governments control substantial amounts of public right-of-way, which many communication providers use to construct their own communication networks. The proposed order would significantly narrow the amount of time for local governments to evaluate 5G deployment applications from communication providers – effectively hindering our ability to fulfil public health and safety responsibilities during the construction and modification of broadcasting facilities.

The FCC's proposed new collocation shot clock is too extreme. The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60-day shot clock. When paired with the FCC's previous decisions exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and twenty-eight cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal.

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
September 19, 2018  
Page 2

This shortened approval window would also limit public participation. Our rural residents enjoy and seek to maintain the natural aesthetics of where they live. Loss of this natural aesthetic is a typical point of opposition to wireless projects. Limitations on public participation will result in lost opportunities for providers and residents to discuss these concerns in a public forum. This will in turn increase affected residents animus towards providers due to perceived loss of a voice in land use decisions.

The FCC's proposed definition of "effective prohibition" is overly broad. The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local right-of-way requirements unless they meet subjective and unclear set of guidelines. While the FCC may have intended to preserve local review, this framing and definition of "effective prohibition" opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. As a rural county within California, we are ill equipped to absorb the financial cost of additional litigation.

The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation. We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why many local governments have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits for the community. Additionally, the Commission has moved away from the rate regulation in recent years, so it would be inconsistent for the FCC to attempt to narrowly dictate the rate that can be charged by local governments.

In closing, the County wants to be a partner in successful deployment of next generation infrastructure. However, we oppose this effort to preempt or restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,



Sal Quintero, Chairman  
Fresno County Board of Supervisors

cc: Fresno County Board of Supervisors  
Fresno County Federal Legislative Delegation  
Nancy Prowitt, Federal Legislative Advocate, Alcalde & Fay  
Graham Knaus, California State Association of Counties